

FILED 14 JUL 7 11 1029AM CCRP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MARGARET BARICEVIC,)	
)	
Plaintiff,)	Civil No. 11-166-JO
)	
v.)	<u>OPINION AND ORDER</u>
)	
CAL-WESTERN RECONVEYANCE)	
CORPORATION; ET AL.,)	
)	
Defendants.)	

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JONES, Judge:

This action for wrongful foreclosure is before the court on defendant Cal-Western Reconveyance Corp.'s motion to dismiss (# 10) and Request for Judicial Notice (# 13), and defendant Wells Fargo Bank, NA's motion to dismiss and/or for summary judgment (# 15). Additionally, plaintiff's counsel has moved to withdraw (# 50) and Wells Fargo has moved to extend all pre-trial dates (# 49).

Plaintiff's counsel's motion to withdraw is granted.

Defendant Cal-Western's request for judicial notice is granted. Cal-Western's motion to dismiss is well-taken and is granted. Specifically, no Oregon statute requires a specific time lapse between the recording of an appointment of a successor trustee and the successor trustee's recording of a notice of default. In any event, the appointment of successor trustee in this case was in fact recorded just before the notice of default. Additionally, the record¹ demonstrates that all postponements of the trustee's sale were properly proclaimed at the time and place set for sale. See ORS 86.755; Affidavit of John Jerman; Affidavit of Steven Black.

Well Fargo's motion for summary judgment also is well-taken and is granted. Specifically, I agree with the well-reasoned opinion issued by Judge Hernandez in Copeland-

¹ Cal-Western joined in Wells Fargo's motion for summary judgment, and all parties, including plaintiff, submitted evidentiary materials.

Turner v. Wells Fargo Bank, N.A., Civil No. 11-37-HZ (Opinion & Order July 6, 2011) (# 32), and find that plaintiff's claims against Wells Fargo are preempted by the Home Owners' Loan Act, 12 U.S.C. §§ 1461 et seq and the implementing federal regulations.

CONCLUSION

Plaintiff's counsel's motion to withdraw (# 50) is granted. Wells Fargo's motion to extend deadlines (# 49) is moot. Cal-Western's motion to dismiss (# 10) and Request for Judicial Notice (# 13), and Wells Fargo's motion to dismiss and/or for summary judgment (# 15) are granted. Any other pending motions are denied as moot, and this action is dismissed with prejudice.

DATED this 14th day of July, 2011.

Robert E. Jones
ROBERT E. JONES
U.S. District Judge